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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,055	09/28/2001	Jerald C. Seelig	619.438 ACC.UA-Heads	4911

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EXAMINER
WHITE, CARMEN D

ART UNIT	PAPER NUMBER
3714	11

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/967,055	Applicant(s) SEELIG ET AL.	
	Examiner Carmen D. White	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 January 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-61* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *8* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 7, 13, 20, 26, 28, 31, 35, 39, 46 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson (EP 0050419 A1) {BALLY MANUFACTURING CORP.}.

Regarding claims 1, 5, 7, 13, 20, 26, 28, 31, 35, 39, 46 and 50, Thompson teaches a gaming bonus device for use in a gaming system that comprises a primary game that randomly generates a bonus qualifying event; a bonus game communicated with the primary game, the bonus game generating a plurality of either/or binary symbol outcomes; a selector button communicated with the bonus game, the selector button allowing the player to select one of the binary symbol outcomes as a winning outcome; and the bonus game displaying the binary symbol outcomes and calculating a payout based upon the number of binary symbol outcomes that match the winning outcome selected by the player (abstract (57); p. 2, lines 15-22; p. 3, lines 20-24; p. 4, lines 20-24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson.

Regarding claim 17, Thompson teaches all the limitations of the claim as discussed above. While Thompson teaches the feature of allowing the user to select the outcome of the bonus game, Thompson is silent regarding the feature of automatic selection of a winning outcome. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the automatic selection of the outcome of the bonus game because it is well known in the art to allow the machine to select the outcome. This would make it easier for the casino or gaming authority to determine the percentage of winning bonus outcomes; thereby, decreasing the amount the casino/authority has to pay out in winnings.

Claims 2, 6, 8, 11-12, 14,16, 18-19, 21-22, 24-25, 29, 32-33, 37-38 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of Gutknecht (5,154,420).

Regarding claims 2, 6, 8, 11-12, 14, 21-22, 29, 32-33, 37-38 and 47, Thompson teaches all the limitations of the claims as discussed above. While Thompson teaches the feature the random generation of a plurality of binary symbol outcomes, Thompson is silent regarding the binary symbol outcomes comprising three spinning coins. In an analogous slot gaming device, Gutknecht teaches the use of a spinning coin to determine heads/tails output (abstract; Fig. 1, #52). It would have been obvious to a person of ordinary skill in the art to employ the use of the spinning coin of Gutknecht

and to include this feature in multiple symbol outcomes in Thompson to add an exciting aesthetic display to the system of Thompson. This would increase the player's anticipation and generate increased participation at the gaming machine of Thompson.

Regarding claim 16, Thompson in view of Gutknecht discloses all the limitations of the claims as discussed above. Gutknecht lacks teaching the spinning coin being displayed on a video. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Gutknecht to include a video display because it is well known to adapt mechanical reel features to be displayed on a video screen. This makes it easier to change the gaming software to add different symbols to the game.

Regarding claims 18-19 and 24-25, Thompson in view of Gutknecht discloses all the limitations of the claims as discussed above. Thompson is silent regarding the feature of a changing sing for entertainment during bonus play and the additional feature of this sign being a quarter. It would have been obvious to one of ordinary skill in the art at the time of the invention to enhance the aesthetic appearance of Thompson by employing the spinning quarter taught by Gutknecht to attract players to the game. This would increase player participation at the game.

Claims 3-4, 9-10, 15, 23, 27, 30, 34, 36, 40-45, 48-49 and 51-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of Gutknecht (5,154,420), further in view of Adams (5,848,932).

Regarding claims 3-4, 9-10, 15, 23, 27, 30, 34, 36, 48-49 and 51-53 Thompson in view of Gutknecht discloses all the limitations of the claims as discussed above. Thompson and Gutknecht lack disclosing the feature of a multiplier associated with the

bonus game for multiplying the payout of the bonus game. In an analogous gaming machine, Adams teaches a random multiplier for the payout of a bonus game (last 3 lines of abstract; Fig. 3, #270; col. 2,lines 19-21; col. 2, lines 64-67 through col. 3, lines 1-4). The use of multipliers is well known in the slot machine art. Multipliers increase the player's participation in the games because they offer the opportunity to increase the player's winnings to substantially higher amounts than a regular payout. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include multipliers of Adams in the bonus game features of Thompson and Gutknecht.

Regarding claims 54-57, Thompson in view of Gutknecht, further in view of Adams teaches all the limitations of the claims as discussed above. While Adams teaches the use of a multiplier, Adams lacks teaching the multiplier being zero and the offering of a consolation prize in this case. It would have been an obvious matter of choice well within the functional capability of Adams to manipulate the software to include a consolation prize instead of a payout for a zero multiplier. This would increase the player's morale in cases so that they walk away with a remembrance for the gaming experience.

Regarding claims 58-61, Thompson in view of Gutknecht, further in view of Adams teaches all the limitations of the claims as discussed above. While Thompson, Gutknecht and Adams teach a payout. Adams further teaches a payout associated with a multiplier. The references lack teaching a progressive jackpot being awarded for repeated selections of a multiplier or a progressive jackpot proportional to the number of

correctly selected binary outcomes. The use of progressive jackpots are well known in the art. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the awarding of a progressive jackpot for various game outcomes to increase the player's chances of obtaining a higher payout.

Regarding claims 40-45, Thompson in view of Gutknecht, further in view of Adams teaches all the limitations of the claims as discussed above. While Adams teaches the use of a multiplier to multiply the payout, Adams is silent regarding the aspect of allowing the player to choose between receiving a prize or multiplying the prize by an unknown multiplier and associating this multiplier with the number of selected binary outcomes. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate this feature into the combined systems of Thompson, Gutknecht and Adams to make the multiplier value more random and to allow the player to feel as though he/she has the ultimate control over the outcome of his/her payout.

Examiner's Response to Applicant's Remarks

Applicant's amendments have overcome the 112 2nd paragraph rejections of the prior office action (paper #7, 8/27/02). However, Applicant's amendments have not overcome the prior art rejection regarding the prior art references cited above. The examiner has repeated the rejection of the claims, recited in the prior detailed action (paper #7), above.

Applicant argues that the prior art relied upon for rejecting the instant claims does not teach the feature of a ***binary symbol outcome***, which Applicant alleges is taught in all of the independent claims of record (claims 1, 7, 13, 20, 28, 31, 35, 40, 43, 46 and 50-and the claims that depend from them). However, this claim language is only recited in independent claims 1, 13, 20, 28 and 46, and those that depend from these claims. The remaining claims merely recite a binary outcome, which Thompson clearly teaches in the feature of a higher or lower outcome feature (see abstract, #57, of Thompson).

Applicant's arguments appear to be based in semantics. The examiner recognizes that the prior art of reference does not explicitly teach outcomes, such as heads or tails , odds or evens, X's or O's- which are specific examples from Applicant's disclosure. However, the use of the terminology binary symbol outcomes is ambiguous to the examiner.

Thompson teaches a binary outcome (higher or lower) that involves the use of symbols. This, by the examiner's judgment, can be interpreted as a binary symbol outcome. Applicant's arguments provide greater clarity, in the examiner's opinion, than Applicant's claim language. For instance, the last line of page 10 of Applicant's arguments recites "an outcome based on two possible symbols". This better states the feature which Applicant relies so heavily upon for patentability.

The examiner suggests that Applicant modify the claim language to better recite this feature. The examiner understands that Applicant wants to obtain the broadest possible coverage. However, the claim language must be distinguishable from the prior art of record in order to overcome the rejections.

As the claims are currently written, the prior art rejection made in the prior office action remains.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

USPTO Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for ***Non-official*** communications and 703-305-3579 for ***Official*** communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.

cdw

S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700